

**\*\*NOT FOR PRINTED PUBLICATION\*\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

UNITED STATES OF AMERICA,	§	
	§	
<i>Plaintiff,</i>	§	
	§	CIVIL ACTION No. 1:10CV240
v.	§	
	§	
JAMES A. SMITH ET AL.,	§	JUDGE RON CLARK
	§	
<i>Intervenor Plaintiffs,</i>	§	
	§	
v.	§	
	§	
WILHELMSSEN SHIPS SERVICE, INC.,	§	
	§	
<i>Claimant,</i>	§	
	§	
v.	§	
	§	
SS CAPTAIN H.A. DOWNING, O.N.	§	
1046031, its boilers, engines, machinery,	§	
masts, spars, rigging, boats, anchors, cables,	§	
chains, tackle, tools, bunkers, pumps and	§	
pumping equipment, apparel, furniture,	§	
fittings and equipment, spare parts, and all	§	
other appurtenances, etc., in rem; and AHL	§	
SHIPPING COMPANY, in personam,	§	
	§	
<i>Defendants.</i>	§	
	§	

**FINDINGS OF FACT AS TO JAMES A. SMITH'S UNSEAWORTHINESS CLAIM**

Intervenor Plaintiff James A. Smith asserts claims against the vessel the SS CAPTAIN H.A. DOWNING for unseaworthiness and maintenance and cure for injuries he incurred on January 18, 2009, when he slipped and fell on the deck of the galley.

A bench trial was held on Smith's claims against the vessel on October 5-7, 2011. The court made detailed findings of fact on the record and concluded that certain injuries suffered by Smith were proximately caused by conditions that rendered the vessel unseaworthy. In addition to the findings stated in the record, the court finds as follows:

1. The court carefully examined the tile exemplar introduced as United States's Exhibit #32. This tile exemplar, Exhibit 32, found on the boat was of the same age and type as the actual tile on the galley floor.
2. The tile was not skid resistant and actually was smooth to the touch. When water or other liquid is placed on the tile, it would be slippery.
3. The floor of the galley was noticeably sloped, as part of the design.
4. Placing tile that was not skid resistant on the sloped floor in the galley, combined with the absence of skid resistant mats in front of the sink, stove, and steam table where spills could be expected, created an unseaworthy condition.

So **ORDERED** and **SIGNED** this **28** day of **November, 2011**.



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Ron Clark, United States District Judge